



4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA 2013-0002-N-3]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describes the nature of the information collection and their expected burden. The Federal Register notice with a 60-day comment period soliciting comments on the following collection of information was published on November 15, 2012.

DATES: Comments must be submitted on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS-21, Federal Railroad Administration, 1200 New Jersey Ave., SE, Mail Stop 17, Washington, DC 20590 (telephone: (202) 493-6292), or Ms. Kimberly Toone, Office of Information Technology, RAD-20, Federal Railroad Administration, 1200 New Jersey Ave., SE, Mail Stop 35, Washington, DC 20590 (telephone: (202) 493-6132). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

The Paperwork Reduction Act of 1995 (PRA), Pub. L. No. 104-13, Section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501-3520), and its implementing regulations,

5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On November 15, 2012, FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs for which the agency was seeking OMB approval. 77 FR 68203. FRA received one comment in response to this notice.

On January 9, 2013, the Association of American Railroads (AAR) submitted a comment on behalf of itself and its member railroads. AAR stated its opposition to the proposed renewal of OMB's approval of FRA's requirement that rolling stock with glazing materials be stenciled and noted that 49 CFR 223.17 and 49 CFR 223, Appendix A, set forth FRA's glazing requirements. Section 223.17 requires the stenciling of the walls of rolling stock as follows:

Each locomotive, passenger car and caboose that is fully equipped with glazing materials that meets the requirements of this part shall be stenciled on an interior wall as follows:

“Fully Equipped FRA Part 223 glazing” or similar words conveying that meaning in letters at least 3/8 inch high.

Appendix A requires more detailed information than section 223.17. It provides the following:

c. Material Identification

(1) Each individual unit of glazing material shall be permanently marked, prior to installation, to indicate that this type of material has been successfully tested as set forth in this appendix and that marking shall be done in such a manner that it is clearly visible after the material has been installed.

(2) Each individual unit of a glazing material that has successfully passed the Type I testing regimen shall be marked to indicate:

- (i) “FRA Type I” material;
- (ii) the manufacturer of the material;
- (iii) the type or brand identification of the material.

(3) Each individual unit of a glazing material that has successfully passed the Type II testing regimen shall be marked to indicate:

- (i) “FRA Type II” material;
- (ii) the manufacturer of the material;
- (iii) the type or brand identification of the material.

AAR believes that, “with glazing materials required to have detailed information set forth in Appendix A, there is no reason to require the information on the walls of rolling stock required by section 223.17. Section 223.17 is simply superfluous.” In its letter, AAR pointed out that it filed a petition with FRA in 2004 to eliminate the stenciling requirement under 49 CFR 223.17 and remarked:

With more than eight years having elapsed since AAR filed its petition, it is past the point in time when FRA should have acted to eliminate the requirement to stencil rolling stock. OMB should deny the request to approve this useless information collection requirement.

FRA fully acknowledges the issue that AAR raises in its January 9th letter and in its earlier petition to FRA. For some time, FRA has planned to address this issue through an agency rulemaking. However, FRA cannot always proceed with a rulemaking as quickly as it or the regulated community would like, even when the agency knows that a current rule needs to be revised. The AAR well knows that the rulemaking process is neither a fast nor a simple process. Myriad points of view must be considered before the agency changes an existing rule. To achieve its mission to promote and enforce all areas of rail safety, FRA must prioritize its rulemaking agenda to address those areas that will most greatly and directly impact rail safety. In that regard, the current state of rail safety throughout the nation is a prime consideration. Rail accidents and incidents that occur at any given time and result in numerous injuries, fatalities, significant property damage, or harm to nearby communities will demand urgent agency action. Items on the agency regulatory agenda then will be moved up or down depending on current rail events. Having said all the above, FRA plans on revising its Safety Glazing Standards Rule (49 CFR Part 223) later this year. FRA will carefully review section 223.17 and other requirements in this rule that are deemed unnecessary or superfluous with the object of eliminating them.

FRA asks AAR's patience and asks OMB to approve this latest renewal information collection submission with its current requirements for the maximum time period while FRA works on completing its intended rulemaking action.

Before OMB decides whether to approve a proposed collection of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)-(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summary below describes the nature of the information collection requirements (ICRs) and the expected burden, and are being submitted for clearance by OMB as required by the PRA.

Title: Certification of Glazing Materials

OMB Control Number: 2130-0525

Type of Request: Extension without change of a previously approved information collection

Affected Public: 5 Manufacturers

Abstract: The collection of information is set forth under 49 CFR Part 223, which requires the certification and permanent marking of glazing materials by the manufacturer. The manufacturer is also responsible for making available test verification data to railroads and FRA upon request.

Form Number(s): N/A

Annual Estimated Burden Hours: 119 hours

Title: Use of Locomotive Horns at Highway-Rail Grade Crossings

Title: Disqualification Proceedings

OMB Control Number: 2130-0529

Type of Request: Extension without change of a previously approved information collection

Affected Public: 40,000 Locomotive Engineers

Abstract: Under 49 U.S.C. 20111(c), FRA is authorized to issue orders disqualifying railroad employees, including supervisors, managers, and other agents, from performing safety-sensitive service in the rail industry for violations of safety rules, regulations, standards, orders, or laws evidencing unfitness. FRA's regulations, 49 CFR Part 209, Subpart D, implement the statutory provision by requiring (i) a railroad employing or formerly employing a disqualified individual to disclose the terms and conditions of a disqualification order to the individual's new or prospective employing railroad; (ii) a railroad considering employing an individual in a safety-sensitive position to ask the individual's previous employing railroad whether the individual is currently serving under a disqualification order; and (iii) a disqualified individual to inform his new or prospective employer of the disqualification order and provide a copy of the same.

Additionally, the regulations prohibit a railroad from employing a person serving under a disqualification order to work in a safety-sensitive position. This information serves to inform a railroad whether an employee or prospective employee is currently disqualified from performing safety-sensitive service based on the issuance of a disqualification order by FRA. Furthermore, it prevents an individual currently serving under a disqualification order from retaining and

obtaining employment in a safety-sensitive position in the rail industry.

Annual Estimated Burden Hours: 5 hours

Addressee: Send comments regarding this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, N.W., Washington, D.C., 20503, Attention: FRA Desk Officer. Comments may also be sent electronically via e-mail to the Office of Information and Regulatory Affairs (OIRA) at the following address: oir-submissions@omb.eop.gov

Comments are invited on the following: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

Authority: 44 U.S.C. 3501-3520.

Issued in Washington, DC on January 29, 2013._____.

Rebecca Pennington
Chief Financial Officer
Federal Railroad Administration

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